



California Fair Political Practices Commission

May 15, 1986

Ronald J. Einboden
Covina City Attorney
Oliver, Stoever & Laskin
1000 Sunset Boulevard
Los Angeles, CA 90012

Re: Your Request for Advice
Follow-Up to Our File
No. A-84-100
Our File No. A-86-126

Dear Mr. Einboden:

Your letter states your question and the facts upon which it is based as follows:

The Mayor of the City of Covina has requested an advice letter addressed to the question of whether or not it would now be allowable to have individual council members serve on the Board of Directors of the Covina Irrigating Company.

The reason for this request is that the Covina Irrigating Company has, since your advice letter of August 10, 1984, amended its Articles of Incorporation and By-Laws. As amended and restated the Articles of Incorporation now state:

"Second: The Corporation's only purpose shall be to develop, distribute, supply or deliver water for irrigation and domestic uses to or for the benefit of its shareholders, at cost plus necessary expenses, in proportion to the number of shares of stock held by them respectively."

I enclose for your information a copy of the restated Articles of Incorporation and the new By-Laws of the Covina Irrigating Company.

Reference is made to our previous advice letter No. A-84-100 and it is incorporated by reference. The key issue is not whether members of the city council may be allowed to serve

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on the Covina Irrigating Company board, but whether they may be compensated for doing so at a rate of \$250 or more per year and then still participate in City decisions (such as contracts and director voting) which affect the Covina Irrigating Company ("CIC").

In the previous letter, we determined that the CIC was a private business entity within the meaning of Government Code Section 82005^{1/} and, was a "source of income" to Covina councilmembers sitting on its board. (Government Code Section 87103(c).) The membership on the board of directors of a business entity constitutes a separate basis for disqualification under Government Code Section 87103(d). As discussed in the previous letter, either one of these factors standing alone would be a sufficient basis for disqualification if the other prerequisites in Government Code Section 87103 are present (i.e., material financial effect, etc.).

Your current letter indicates a change in the Articles of Incorporation and By-Laws of CIC to include the phrase: "at cost plus necessary expenses." It is unclear whether or not this satisfies the requirements of the PUC Code for "at cost" deliveries to qualify as a mutual water company. (See discussion in previous letter.) However, for our purposes the current issue is whether or not CIC is an "organization or enterprise operated for profit." If CIC's status has been formally changed to that of a nonprofit corporation, so that no distributions are being made to shareholders, etc., then it would not be a "business entity" within the meaning of Government Code Section 82005 and this change would eliminate Government Code Section 87103(d) as a basis for disqualification.

This change to nonprofit status would not alter the potential applicability of Government Code Section 87103(c). If councilmembers receive \$250 or more in income from a nonprofit corporation, then disqualification may still be required. The previous letter suggested ways of avoiding the problem. Since the exclusions found in Government Code Section

^{1/} Government Code Section 82005 reads as follows:

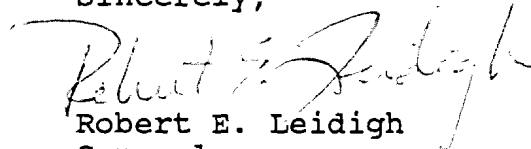
"Business entity" means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

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82030(b)(2) to not apply to a private, nonprofit water company, any payments received from CIC would count toward the \$250 income threshold under Government Code Section 87103(c).

I trust that this letter has adequately responded to your question. If you have any further questions regarding this letter, please do not hesitate to call me at (916) 322-5901.

Sincerely,



Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: Bob Low

THOMAS W. STOEVEER
RICHARD LASKIN
WILLIAM B. BARR
RONALD J. EINHODEN
CHARLES S. VOSF
CONNIE COOKE SANDIFER
ROGER W. SPRINGER
ARNOLD K. GRAHAM

LAW OFFICES
OLIVER, STOEVEER & LASKIN

A PROFESSIONAL CORPORATION
1000 SUNSET BOULEVARD
LOS ANGELES, CALIFORNIA 90012
(213) 250-3043

APR 13 3 45 AM '86
F. COUNSEL
NORMAN G. OLIVER

April 14, 1986

Ms. Sarah Cameron, General Counsel
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95804

Re: City of Covina and Covina Irrigating Company
(Your Previous Advice Letter No. A-84-100)

Dear Ms. Cameron:

The Mayor of the City of Covina has requested an advice letter addressed to the question of whether or not it would now be allowable to have individual council members serve on the Board of Directors of the Covina Irrigating Company.

The reason for this request is that the Covina Irrigating Company has, since your advice letter of August 10, 1984, amended its Articles of Incorporation and By-Laws. As amended and restated the Articles of Incorporation now state:

"Second: The Corporation's only purpose shall be to develop, distribute, supply or deliver water for irrigation and domestic uses to or for the benefit of its shareholders, at cost plus necessary expenses, in proportion to the number of shares of stock held by them respectively."

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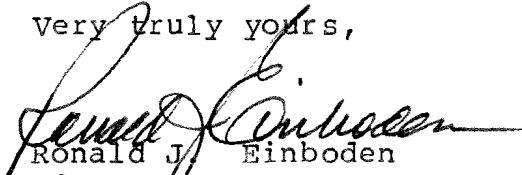
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restated Articles of Incorporation and the new By-Laws
of the Covina Irrigating Company.

Thank you for your assistance.

Very truly yours,


Ronald J. Einboden
of OLIVER, STOEVER & LASKIN

RJE:dr

Enclosure

cc: (without enclosures)

Mr. Richard Miller,
City Manager

Honorable Charles Colver,
Mayor

BY-LAWS
of
COVINA IRRIGATING COMPANY

ARTICLE I

California General Corporation Law Applicable

The term "General Corporation Law" is used in these By-Laws with the same meaning as defined in Section 100 of the Corporations Code of the State of California; and words, phrases and terms are used in these By-Laws with the same meaning as used or defined in the General Corporation Law.

ARTICLE II

By-Law Amendments

These By-Laws may be repealed or amended or new By-Laws adopted by (a) the vote of a majority of a quorum of shareholders, represented in person or by proxy, at a shareholders' meeting, at which such meeting fifty percent (50%) of the issued shares of the Company shall constitute a quorum, or, (b) the written assent of shareholders entitled to exercise a majority of the voting power, filed with the Secretary; or (c) by a two-thirds (2/3) vote of the Board of Directors.

ARTICLE III

Shareholders

Section 1. Provisions of the General Corporation Law Applicable. Except in those particulars and to the extent hereinafter expressly provided for, all of the provisions (whether mandatory or permissive) of the General Corporation Law of the State of California, as now or hereafter existing, are

approved, adopted and made applicable to the Company; and whenever no express provision is contained herein with respect to any matter authorized to be regulated, fixed, or established by or in the By-Laws, it is intended to adopt and approve the statutory provisions pertaining thereto and regulating or providing for the same.

Section 2. Annual Meeting. A meeting of shareholders to be known as the "annual meeting," shall be held each year on the fourth Saturday of September, at the hour of 9 o'clock A.M., for the purpose of electing a Board of Directors, and other purposes.

Fifty percent (50%) of the shares entitled to vote shall constitute a quorum at a shareholders' meeting and the vote of a majority of the shares represented at the meeting, in person or by proxy, shall be the act of the shareholders.

Section 3. Special Meetings. Special meetings of the shareholders, for any purpose whatever, may be held at any time upon call, which shall be made by the President, or by the Board of Directors, by resolution adopted by majority vote, or by the written assent of a majority of all the acting directors filed with the Secretary, or by one or more shareholders holding not less than one-fifth of the voting power of the Company.

Section 4. Place of Meetings. Unless some other place shall be appointed in any instance or instances, as hereinafter provided, meetings of shareholders, both annual and special, shall be held at the principal office of the Company.

Authority is hereby conferred upon the Board of Directors, by resolution adopted by majority vote of all its members, or by

written assent of a majority of such members, filed with the Secretary, to fix or designate (and from time to time change) the place for any shareholders' meeting, or meetings, one, or more, or all, whether annual or special. Any place so designated shall be within the County where the principal office is situate, and in such instance said meeting, or meetings, shall be held at the place so fixed or designated.

Section 5. Notice of Meeting. Written notice of each meeting of shareholders, whether annual or special, shall be given to each shareholder entitled to notice, not more than sixty (60) days, nor less than ten (10) days, before the meeting, in any of the following ways:

First: By delivering such notice personally; or,

Second: By mailing such notice, charges prepaid, addressed to such shareholder at his address appearing on the books of the Company. If no address appears on the books of the Company, then the notice shall be addressed to the shareholder at the place where the principal office of the Company is situated.

Section 6. Form of Notice and Statement of Purpose. Notice of the meeting shall specify the place, the day and the hour of the meeting. In the case of special meetings, the general nature of the business to be transacted shall be stated in the notice, but in the case of the annual meeting need not be stated; provided, however, the provisions of Section 601 of the Corporations Code requiring notice to the shareholders of special proposals to be submitted at a meeting, whether annual or special, shall always be observed.

Section 7. Shareholders Entitled to Notice. All notices of any meeting shall be mailed on the same day and at the same time. Where notice of any shareholders' meeting is to be mailed, notice shall be given to those who appear from the stock records as record holders at 12 o'clock, Noon, on the day immediately preceding the day of mailing; and 12 o'clock Noon on the day immediately preceding the day of mailing is the record date and time for the determination of shareholders entitled to notice of the meeting.

Section 8. Proxies. Every shareholder entitled to vote or execute consents or assents shall have the right to do so either in person or by an agent or agents authorized by written proxy executed by the shareholder, or by the duly authorized agent of such shareholder, and filed with the Secretary of the Company. Proxy blanks shall be sent to each shareholder along with notice of meeting. All proxies which appoint the Secretary or Assistant Secretary of the Company as the holder thereof shall be used for quorum purposes only, unless the maker of such proxy shall in writing instruct otherwise; in which event it shall be voted by the Secretary or Assistant Secretary in accordance with such written instructions, and this provision as to the Secretary voting proxies shall be noted on the blank proxies sent to the shareholders.

Section 9. Shareholders Entitled to Vote. 12 o'clock Noon on the day next preceding the day first appointed for a shareholders' meeting is hereby fixed as the time for the close of the stock books, and the determination of those entitled to

vote at the meeting, and, subject to the provisions of law, only persons in whose names the shares stand on the stock records of the Company, at the close of stock books, as aforesaid, shall be entitled to vote at that meeting, or any adjournment thereof.

No transfer of shares shall be made on the stock records of the Company during the period elapsing between said close of stock books and adjournment of the meeting on the day first appointed therefor. If a meeting be adjourned to a subsequent date, the stock books shall open upon adjournment so as to permit transfer, but not so as to affect the right of voting, determined as above provided.

Section 10. Business to Be Transacted. At the annual meeting, directors to the number authorized shall be elected, reports of the affairs of the company shall be considered, and any other business may be transacted which is within the powers of the shareholders, including the amendment, repeal and adoption of By-Laws, the approval and ratification of amendments of the Articles of Incorporation, and action upon or with respect to any or all questions and matters requiring the vote, consent or approval of the shareholders, or with respect to which the shareholders are permitted to act, subject, however, to the provisions of Section 601 of the Corporations Code, requiring notice to the shareholders of special proposals. At a special meeting, any business may be transacted of the general nature specified in the notice thereof, but not otherwise.

Section 11. Manner of Voting at Shareholders' Meetings. At meetings of shareholders, all questions, other than an

election of directors, or except as otherwise expressly provided by statute, or by these By-Laws, shall be determined by majority vote of the shares represented at the meeting, and all voting shall be viva voce, unless a majority in voting power of the shares represented shall demand a vote by written ballot.

Section 12. Election of Directors and Cumulative Voting.

In an election of directors, the entire number to be elected shall be elected at the same time and upon a single vote or ballot, and directors shall not be elected separately or in any number less than the entire number to be elected.

At such election cumulative voting shall obtain, and a shareholder shall have a number of votes equal to the number of shares held by him multiplied by the number to be elected, and may cast all of his votes in favor of one or more candidates not exceeding the number to be elected.

If there has been nominated for the office of director more than the number to be elected, or upon the demand of any shareholder represented at the meeting, or if voting by mail has been provided for, the election shall be by written ballot, otherwise, it shall be viva voce.

Section 13. Directors Elected at Special Meeting.

Whenever, for any reason, no election of directors has been had for more than one year a Board of Directors may be elected at a special meeting of the shareholders called for that (in addition to any other) purpose, by the person or persons, in the manner and upon the notice in these By-Laws provided for calling and noticing special meetings of shareholders.

The terms of directors elected at a special meeting shall expire at the same time as though they had been elected at the annual meeting next preceding such special meeting.

Section 14. Inspectors of Elections. Inspectors or an Inspector, of Elections may be appointed and shall have and exercise the powers and authority provided by provisions of law and these By-Laws.

Section 15. Quorum of Shareholders. The presence in person or by proxy of the holders of fifty percent (50%) of the shares entitled to vote at any meeting shall constitute a quorum for the transaction of business, including the election of directors; provided, if at any time a larger percentage shall be required by law to constitute a quorum, then a quorum shall consist of the smallest percentage permissible by law at that time.

ARTICLE IV

Directors

Section 1. Provisions of the General Corporation Law. Except in those particulars and to the extent hereinafter expressly provided for, all provisions (whether mandatory or permissive) of the General Corporation Law, as now or hereafter existing, are approved, adopted and made applicable to the Company; and whenever no express provision is contained herein with respect to any matter authorized or permitted to be regulated, fixed or established by or in the By-Laws, it is intended to adopt and approve the statutory provisions pertaining thereto and regulating or providing for the same.

Section 2. Qualifications and Term. No person shall be eligible for election as a member of the Board of Directors unless he is a bona fide owner of at least one share of the Capital Stock of the Company and no regular employee of the Company who receives a salary shall serve on the Board of Directors. The term of office of a director shall begin immediately upon his election or appointment; and each director so elected or appointed shall hold office until his successor is elected or appointed and qualifies, or until he resigns or is removed from office, whichever shall first occur.

Section 3. Organization Meeting. A meeting of the Board of Directors (to be known as the "Organization Meeting") shall be held immediately succeeding adjournment of the shareholders' meeting at which directors are elected, or with the consent of all the directors, at any time prior to the next regular meeting of directors. No notice of such organization meeting need be given.

Section 4. Regular Meetings. Meetings of the Board of Directors, to be known as "Regular Meetings," shall be held without call on the second Tuesday of each month at the hour of 3 o'clock P.M.; provided, the time of holding such regular meetings and the frequency thereof may, from time to time and at any time, be changed by resolution adopted by majority vote of the Board. It shall not be necessary to give notice of regular meetings, nor of the business to be transacted; provided, if the time for holding regular meetings be changed, written notice of that fact shall be given to those directors who were absent at the time of

the adoption of the resolution effecting the change. If the time appointed for a regular meeting fall upon a legal holiday, it shall be held at the same hour on the next succeeding business day.

Section 5. Special Meetings. Special meetings of the Board of Directors may be held from time to time upon call by the President, or if he be absent or be unable or refuse to act, by any Vice-President; and it shall be the duty of the President, or, if he be absent or be unable or refuse to act, then of any Vice President, to call a special meeting upon the written request of two directors, specifying the purpose; and in the event neither the President nor Vice-President shall call such meeting upon said request, then the same may be called by said two directors. The call, in any instance, shall be delivered to the Secretary or person whose duty it is to give notice.

Section 6. Notice of Special Meetings. Notice of special meetings of the Board of Directors, specifying the time and place of meeting, shall be given each director not later than on the day next before the day of the meeting in any one of the following ways to wit:

First: By personal delivery of written notice of the meeting; or

Second: By sending written notice of the meeting by mail or telegram; provided, said written notice shall be mailed or sent in sufficient time to permit its receipt on the day next before the meeting, in the ordinary course of transmission; or,

Third: By leaving written notice of the meeting at the residence or place of business of the director to be served, with some person residing or regularly employed there; or Fourth: Verbally or by word of mouth, including therein telephoning, directly and personally to the director to be notified from and by the person whose duty it is to give notice, when intended as notice of meeting by the person giving the same.

Section 7. Place of Directors' Meetings. Meetings of the Board of Directors, whether regular or special, shall be held at such place within the State of California as has been designated from time to time by resolution of the Board, or by written consent of all members of the Board; and, in the absence of such designation, shall be held at the principal office of the Company.

Section 8. Waiver of Notice and Consent to Meetings. Directors may waive any and all provisions of law and/or of these By-Laws, in respect of all, notice and place of meeting, or any of them, and may consent to the holding of any meeting, without call and notice, or either of them, and without regard to the place where held; and any director may waive call, notice and place of meeting, or any of them, in respect of himself, and may consent to the holding of any meeting without call, and notice, or either of them, and without regard to the place where held.

Any regular or special meeting of directors, held with or upon the unanimous consent or approval of all the members of the Board (and attended by not less than a quorum), shall be valid

without regard to call and notice, or either of them and without regard to the place where held, and the proceedings of any such meeting shall be valid and constitute the act, or acts, of the Board of Directors, as fully and conclusively as though taken and had at a meeting duly called and noticed and held at the place duly appointed therefor. Attendance at and participation in the same proceedings of any meetings (attended and participated in by not less than a quorum), without objection to the regularity or sufficiency of, or lack of, call and notice, or either, or the place where held, shall constitute and be a waiver in respect of such matters and an irrevocable consent to the holding of such meeting on the part of and by each director so attending and participating without objection.

Such herein authorized or referred to waiver and consent, or either, of any director not present at such meeting, may be made or given either before, during or after the meeting, and may be made and evidenced in any of the following ways, to wit:

- (a) In writing, filed with the Secretary, either before, during or after the meeting;
- (b) Subscribing at the foot of the minutes of each meeting an approval of each such minutes; or,
- (c) Approval, without objection, of the minutes of such meeting at a subsequent meeting of the Board, attended by the director who was absent from the first mentioned meeting and whose waiver or consent is to be secured.

Section 9. Vacancies. Any vacancy in the office of director, however created or arising, may be filled by a majority

of the remaining directors, though less than a quorum; and the shareholders may fill any vacancy existing at any time and not filled by the directors.

Section 10. Quorum. A majority of the authorized number of directors shall be necessary to constitute a quorum for the transaction of business; and, unless otherwise required by law or these By-Laws, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 11. Business to Be Transacted. It shall not be necessary to state in any notice, whether of a regular or special meeting, the nature of the business to be transacted thereat, and any business that the Board may have transacted at a regular meeting may be transacted with like effect at a special meeting, unless otherwise provided by law.

Section 12. Compensation of Directors. Directors shall receive no stated salary for their services as directors, but each director shall be paid for each regular or special meeting attended by him such sum as may be fixed by the shareholders or fixed by the Board of Directors, from time to time, at any meeting thereof. A director shall also be allowed his reasonable expenses (which includes transportation, meals and lodging) when actually engaged in the business of the Company, to be audited, allowed and paid as other claims against the Company.

ARTICLE V

Notices

Section 1. Applies to All Notices. Except as in conflict with law, or other provisions of these By-Laws, the provisions of this Article are intended to, and shall apply to, all notices required, or permitted, to be given, including notices of shareholders' meetings, directors' meetings and assessments.

Section 2. By Whom Given, Method of Making, and Signing. Notices shall be given by the Secretary, or by an Assistant-Secretary, if such assistant be so directed by either the Secretary, the President, or the directors. If the person whose duty it is to give any notice shall fail or refuse so to do, then it shall be given by any person thereto directed by the President or the directors; or in the event of a called meeting, it may be given (in the event of such refusal by the one directed so to do) by the person or persons calling the meeting. Whenever a written notice is required to be given, or is given, under these By-Laws, or pursuant to any provision of law, it may be made by any method appropriate for such purpose, including longhand writing, printing, stamping, multigraphing, mimeographing, typing, or by one or more or all of such methods, or in part by one method and in other parts by another or other methods.

No notice need be actually signed or subscribed by the hand of the person giving it, and in lieu of actual signing, the name of such person may be made by the method used in making any other

portion of the notice, or by any method by which any portion of the notice might be made, as hereinbefore provided.

Section 3. Where Notice Is to Be Mailed. When resort is had to giving any notice by mail, such notice shall be deposited in the United States Post Office in the city or community in which the principal office of the Company is situated, or in a United States Post Office within not more than fifty miles from said principal office, with postage thereon prepaid, and directed to the person to be served at the address of such person, if such address appears on the records of the Company; and if same does not appear on such records, then addressed to such person at the Post Office at or from which delivery of mail is made at the principal office of the Company. The notice shall be deemed to have been deposited in said Post Office, when deposited in a letter box, or other mail receptacle from which mail is regularly collected for said Post Office.

Section 4. Method, Publication and Form. The Board of Directors shall have power, subject to provisions of law, or of these By-Laws specifically regulating the matter, from time to time and at any time, to determine and order, with respect to notices, or any notice, as follows:

- (a) Where two or more methods are available, which method shall be used, and use of one method as to one or more persons to be served, and another method, or methods, as to others;
- (b) The newspaper in which publication is to be made;
- (c) The date, or dates, of publication;

- (d) The form and contents of the notice; and
- (e) The date of mailing of the notice.

If the time has arrived when the person charged with the duty desires to give notice, and the board has failed to determine any of the above, the same shall then be determined by such person; and the power reserved to, and conferred upon the Board, as above stated, shall be exercised, and the determination made, by the person giving the notice.

ARTICLE VI

Officers

Section 1. Number of Officers. The officers of the Company (herein called "regular officers") shall be elected by the directors, and shall consist of a President, a Vice-President, a Secretary and a Treasurer. The Board may also appoint one or more additional Vice-Presidents, one or more Assistant-Secretaries, one or more Assistant-Treasurers, and such other officers as they deem desirable for the transaction of the business of the Company. The President and Vice-Presidents shall be members of the Board of Directors, and if either shall cease to be a director at any time, he shall, ipso facto, cease to be such President or Vice-President. Any two or more of said offices, except those of President and Secretary, may be held by the same person. Regular officers shall be elected annually at the organization meeting of the Board, or whenever the Board shall determine, provided, they may always be elected whenever a vacancy exists. Other officers may be elected at any meeting of the Board. Unless sooner removed by the Board of Directors, or

unless they resign or become or be disqualified, all of the officers shall hold office until their successors are chosen and qualified. Any officer, whether elected or appointed by the Board of Directors, may be removed at any time by the affirmative vote of a majority of the whole Board of Directors, and each officer shall take and hold office subject to the right of removal by the Board of Directors.

Section 2. The President. The President shall be the chief executive officer of the Company, and as such shall:

- (a) Preside at all meetings of the shareholders and directors. Such shall not prevent him from voting, either at shareholders' meetings, or as a director at directors' meetings upon any question.
- (b) Unless otherwise directed by the Board of Directors, sign as President all deeds and all other instruments in writing which have been first approved or authorized by the Board of Directors.
- (c) Have, subject to advice of the directors, general and active supervision of the business and affairs of the Corporation, and shall have power to cause the orders and resolutions of the Board to be carried into effect.

Section 3. Vice-President. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board of Directors shall prescribe.

Section 4. Secretary. The Secretary shall:

(a) Attend all sessions of the Board, and all meetings of the shareholders, and record all votes and minutes of all proceedings in a book to be kept for that purpose, and perform like duties for the standing committees when required;

(b) Keep the corporate seal of the Company and books of blank certificates of stock, fill up and countersign all certificates issued, and affix the corporate seal to all papers requiring a seal; and

(c) Keep proper account books and such records and books pertaining to the issuance and transfer of shares as may be required by law, or these By-Laws, or as the Board of Directors shall prescribe, and discharge such other duties as pertain to his office, or which may be required by law, or by these By-Laws, or by the Board of Directors.

Section 5. Treasurer. The Treasurer shall:

(a) Have custody of the corporate funds and securities and keep full and accurate accounts of receipts and disbursements in books belonging to the Company and deposit all moneys and other valuable effects, in the name and to the credit of the Company, in such depositories as may be designated by the Board of Directors;

(b) Disburse the funds of the Company as may be ordered by the Board, taking proper vouchers for such disbursements, and render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the

financial condition of the Company; provided, the Board may prescribe the manner in which funds shall be withdrawn from and paid out by any depository; and

(c) Give the Company a bond if required by the Board of Directors in a sum, and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and for the restoration to the Company, in case of death, resignation, retirement, or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Company.

Section 6. Duties of Officers May Be Delegated. In case of the absence of any officer of the Company, or for any other reason that the Board may deem sufficient, the Board may delegate, for the time being, the powers or duties, or any of them, of such officer, to any other officer, or to any director, provided a majority of the entire Board concur therein.

ARTICLE VII

Certificates and Transfers of Shares

Section 1. By Whom Signed. Certificates for shares shall be signed by the President or Vice-President and the Secretary, or by an Assistant-Secretary, if such assistant be thereto authorized by the Board of Directors.

Section 2. Form. Subject to the provisions of law, and these By-Laws, certificates for shares shall be of such form and device as the Board of Directors may direct.

The person to whom issued shall be denominated therein as the "record holder," or by such other designation as shall be ordered by the Board pursuant to any provision of law.

The person in whose name a pledge of shares may be registered on the certificate (and on the stock records of the Company) shall be known as the "registered pledgee."

Each certificate shall be issued and held upon and subject to all of the conditions and provisions thereon stated, all of which shall be binding upon the record holder, and registered pledgee (if any) and any transferee or person claiming any interest in the shares, or any of them, evidenced thereby.

Section 3. Registration of Pledge. Upon surrender to the Secretary of a certificate, accompanied by proper and satisfactory evidence of an assignment in pledge, the Company shall issue a new certificate stating therein the name of the record holder, and also the name of the one registered as pledgee, and cancel the old certificate, and record the transaction (with the name of the pledgee) on its books. More than one pledgee may be registered, their priority being indicated by the expressions "first pledgee," "second pledgee," and so forth.

Section 4. Charges Are Liens on Shares. Each charge or toll for water delivered to or for the record holder of any shares by virtue of or in respect of ownership of such shares is a lien against said shares from the time when furnished until paid. Said lien may be foreclosed in the manner now or as may be hereafter provided by law of the State of California for

foreclosure of pledge. Notice of the time and place appointed for the sale of any shares upon foreclosure of such lien shall be mailed to the record holder of said shares at the address of such record holder as it then appears upon the books of the Company, and if no address appears, then mailed to said record holder at the city or community where the principal office is situate. No demand for payment or other notice of sale to the record holder or to any person appearing by the records of the Company to have an interest in said shares need be given other than as provided by law or as hereinbefore provided. At any such sale or sales the Company may bid and purchase.

Section 5. No Transfer While Unpaid Liens. No transfer of the shares of the Company can or will be made on the books of the Company while any assessment, charge or toll thereagainst remains or is unpaid.

Section 6. Assessments and Liens. An assessment shall be a lien upon the shares assessed from the time of the levy. Subject to provisions of law applicable thereto, there shall be on the face of each certificate a statement in form, meaning and effect, substantially as follows:

"Shares evidenced by this Certificate are Assessable. No shares are transferable when:

- (a) An assessment is unpaid; or
- (b) When a registered holder is indebted to the Company."

Section 7. Penalties, Interest and Collection Costs. Each shareholder shall be liable for payment of and shall pay to the Company, upon its demand, all expenses incurred by the Company in

collecting or enforcing payment from such shareholder of any delinquent assessment, charge, toll or other indebtedness. Included in such expenses are attorney's fees in any proceeding for the enforcement of any lien herein provided for, or the collection of such indebtedness, whether by court action or otherwise, and all expenses of any sale.

If payment is made after a stock assessment has become delinquent and before the sale of such stock, the shareholder shall pay a penalty of five percent (5%) of the amount of the assessment on the shares in addition to the assessment. All penalties on delinquent assessments, interest on overdue charges, tolls or other indebtedness, and expenses of collection, as above provided for, shall be added to the principal debt, and shall become and be a lien upon and against the shares, and be secured thereby and enforced in the same manner and with the same effect as the principal debt.

Whenever elsewhere in these By-Laws or in the share certificates, the terms assessment, charge, toll, or any of them, shall be used, such terms shall be deemed to include, in each and every instance whenever such construction is possible or permissible, all penalties, interest and collection expenses pertaining to such assessment, charge or toll, or attaching, accruing or resulting from the nonpayment thereof when due.

Section 8. Record Holder Liable for Tolls and Charges. The record holder of any shares shall be entitled to the delivery of all water apportioned to such shares within the area described in the Articles of Incorporation, subject to suspension or

discontinuance, as herein provided, and shall be personally liable for the payment of all tolls, charges, interest, costs and penalties in respect of or on account of such shares during the time the same are registered in his name on the books of the Company.

ARTICLE VIII

Powers of Board of Directors

The Board of Directors, subject to restrictions of law, the Articles of Incorporation, or these By-Laws, shall exercise all of the powers of the Company, and without prejudice to or limitation upon their general powers, it is hereby expressly provided that the Board of Directors shall have, and they are hereby given, full power and authority, in their unlimited discretion (to be exercised by resolution adopted by majority vote of all the members of the Board whether denominated a rule or regulation, or otherwise), in respect of the matters, and as hereinafter set forth, to-wit:

1. Seal. To adopt, use and at will alter, a corporate seal of form and device approved by the Board; provided, there shall be set forth on said seal, the name of the Company and the State and date of incorporation. Said seal shall be affixed to the share certificates and such other instruments as the Board shall direct.

2. Share Register. To prescribe the form and provide for keeping a share register and records pertaining to the issuance, registration and transfer of shares.

3. Financial Reports. To prescribe the form, and provide for making and giving financial statements and reports to the shareholders.

No balance sheet with statement of income and profit and loss, or other report need be sent to the shareholders.

4. Rules and Regulations. To adopt, repeal, modify, from time to time change, and enforce, all rules and regulations not inconsistent with the laws of the State of California, or with the Articles of Incorporation, or with these By-Laws, by them deemed essential or desirable for the management or conduct of the Company's business and affairs, or the exercise of their powers. Said rules and regulations may, in addition to any other things, provide for and regulate any of the matters in this Article referred to, and authorized to be determined by the Board of Directors.

5. Transfer Fee. To provide for the payment of a transfer fee, to be fixed by the Board of Directors, for the transfer of shares upon the books of the Company; provided, such transfer fee shall not exceed fifteen dollars (\$15.00) for each new certificate issued, plus mailing fee if necessary.

6. Compulsory Exchange of Certificates. To require the respective holders of outstanding share certificates, or of any of such certificates, to surrender and exchange them for new certificates within a period to be fixed by the Board, not less than thirty (30) days from the giving of notice, whenever the Articles of Incorporation have been amended in any way affecting the statements contained in the outstanding share certificates,

or whenever it becomes desirable for any reason, in the discretion of the Board, to cancel any outstanding share certificate and issue a new certificate therefor conforming to law or to the rights of the holder. In any order requiring such surrender and exchange, the Board may provide that no holder of any such certificate ordered to be surrendered shall be entitled to vote or to receive any water or exercise any of the other rights of the shareholders of record until he shall have complied with such order, but such order shall only operate to suspend such rights after notice and until compliance. Notice of such order shall be given in the manner prescribed in these By-Laws for notice of meetings of shareholders, provided that mailing of notice shall in any instance be sufficient and no publication thereof need be made. Such duty of surrender may also be enforced by action at law and any shareholder having the ability, or other person having the possession and control, refusing or failing to surrender and exchange any certificate in accordance with the order of the Board of Directors shall be liable to the Company for all damages incurred by it from such refusal or failure, including reasonable attorney's fees incurred by the Company, in enforcing such duty.

7. Dismissal of Employees. To dismiss any employees (whether regular or temporary) and terminate his employment, whether express or implied, without liability on the Company other than for compensation for services actually performed to the time of dismissal and pro-rated (if that be necessary) at the rate provided for in the contract, or otherwise agreed upon or

payable; and regardless of whether so stated in the contract, or at the time of hiring, the power of the Board to dismiss an employee, as herein provided, shall be deemed a part of every employment and every contract of employment, whether such contract of employment be written or in parol; and no officer, General Manager, Superintendent, or other representative of the Company shall have any authority to employ any person other than upon and subject to the right of the Board to terminate the employment at any time, without liability resulting therefrom; provided further, the Board shall have power to waive such right of dismissal in any hiring for a period of not in excess of one year, when the contract is in writing and shall contain an express waiver of this provision and shall have been expressly authorized by resolution of the Board.

8. Delegation of Powers. To delegate to the General Manager, any Superintendent or other employee or agent of the Company, the enforcement of the rules and regulations of the Company, and the determination of all matters of a ministerial nature.

9. Tolls and Assessments. To fix and from time to time change the charges or tolls payable for water furnished, or other service rendered; and to levy, collect and enforce assessments against the shares of stock.

It shall lie within the discretion of the Board of Directors to determine what part of the revenue of the Company shall be raised by assessments, and what part by tolls or rates, and what

amount or items shall be charged to current operating expense, and what to permanent additions or betterments.

10. Delinquency and Interest. To provide the time when tolls, charges and accounts shall be due, and when delinquent, and for the payment of interest on past due tolls, charges and accounts at the rate of not to exceed two percent (2%) per month.

11. Suspension of Services. To provide for the suspension of water service and for discontinuance of water delivery for violation of the rules and regulations, or for failure to pay any charges, tolls, assessments, costs, interest, penalties or other sums payable to the Company, and the time when and the conditions upon which such delivery or service shall be resumed. Such discontinuance may be solely with respect to the delinquent shares, or with respect to all shares of the shareholder, whether delinquent or not.

12. Measuring and Diversion Devices. To provide for, determine and fix the location and installation of the measuring gates, hydrants, weirs and meters for turning out or measuring the water to which the respective shareholders may be entitled, and that no gate, hydrant, weir or meter shall be installed or changed without the consent and approval of the Board, and that each new installation of such gate, hydrant, weir or meter shall be installed by the Company at the expense of the shareholder or shareholders using the same. Any such appliance shall be owned by, be under the control of the Company, and be deemed a part of the Company's distribution system.

No shareholder, by virtue of the ownership of shares, shall be entitled to connect with the distributing system, used by the Company for delivery of water, or to take water therefrom, except with the consent, and upon and subject to the rules and regulations of the Company pertaining thereto; and the Company reserves and shall have full control over all storing, distributing, measuring and diversion appliances, and over all water until it shall have been actually released or delivered for or to the shareholder.

13. Regulations of Water Service. To provide, determine and fix, at such time or times, and in such manner as the Board shall determine, and to change, any or all of the following with respect to delivery of water, to-wit:

(a) The amount of water available for distribution to the shareholders, and the amount apportioned for and to be delivered for or to each share for any season, year or period of time. In making such determination the Board shall take into consideration all factors by them deemed relevant, and their determination, in good faith, shall be conclusive upon each and every shareholder;

(b) The time when delivery shall begin and end each season or year;

(c) The times during the season when delivery is to be made, and for delivery in heads upon recurring periods, and the amount delivered at any time, and the minimum and maximum number of shares in respect of which delivery will be made at one place or at one time; and

(d) The notice required for and conditions under which delivery is to be made.

14. Extension of Distribution System. To provide and determine the place or places where, and the points to which, the water distributing system or any other system, service, or appliances of the Company shall be located or extended. The holding of shares of the Company shall confer no right upon the shareholder to have any pipeline, water conduit, or other appliance of the Company enlarged or extended without the consent of the Board of Directors; and the Board of Directors shall at all times, be the exclusive judge of the necessity and expediency of constructing, enlarging, changing and extending the water distribution system or other appliances of the Company, and such expediency and necessity shall, at all times, be determined by and subject to the sole and uncontrolled discretion of the Board of Directors. Provided, however, that irrespective of where used, water is to be delivered by the Company, for whatever purpose, to shareholders solely within the area or territory described in the Company's Articles of Incorporation and no extension of Company delivery facilities shall be provided for an extension of water service or delivery of water outside said area.

ARTICLE IX ,

Miscellaneous

Section 1. Fractional Shares Prohibited. Shares may not be divided, and certificates for fractional shares shall not be

issued or permitted, except in cases where fractional shares have heretofore been issued and are still outstanding.

Shares sold or forfeited to the Company for non-payment of an assessment and any penalty thereon shall also be for full shares, except for outstanding fractional shares.

Section 2. Company Fiscal Year. The Company's fiscal year for allocating it's water among shareholders and for accounting purposes shall be the period July 1 through the following June 30. The Board of Directors by Resolution may change the Company's fiscal year at any time and from time to time.

Section 3. Shareholders' Right Of First Refusal To Company Owned Water. The Company has been adjudicated to be the owner of a right to annually produce water from the Main San Gabriel Groundwater Basin and its relevant watershed. The quantative right of such production depends upon rainfall and other relevant factors prescribed by the Court in said adjudication action and by the Main San Gabriel Basin Watermaster appointed by said Court. For each fiscal year the said Watermaster establishes the Operating Safe Yield of the Basin and the share thereof of each Basin producer, including the Company.

Each Company shareholder is entitled to the delivey of his individual proportionate share of the Company's owned water, based upon such shareholder's percentage of ownership of Company capital stock. All Company shareholders shall have a right of first refusal to all Company owned water and water entitlement, as hereinafter set forth.

Each year, pursuant to an operational calendar established by the Board of Directors and after the Main San Gabriel Basin Watermaster has notified the Company of the quantative amount of its entitlement to water from said Basin during the next fiscal year, the Company shall notify each of its shareholders of the amount of his proportional entitlement to Company water during said next fiscal year. Such Company notification to its shareholders shall include a questionnaire requiring each shareholder to timely advise the Company of his intention to use more than (designating the amount), all, some (designating the amount), or none of his said share of Company water from his said Company entitlement. Each shareholder shall complete said questionnaire and return it to the Company within 30 days of its receipt. Failure of a shareholder to timely return said questionnaire to the Company shall be deemed a designation by such shareholder that he will temporarily lease all of his Company owned shares of stock and not use any of his Company entitlement water during the next fiscal year.

All Company allocated water which is designated as not to be used by the original shareholders entitled thereto, shall be classified as "Pooled-Water" and first made available, proportionately, for temporary lease of the shares of said original shareholder and the water entitlement use thereof by other Company shareholders, as herein provided.

Any Company shareholder desiring delivery of more than his original proportionate and allocated share of Company water in the next fiscal year shall be entitled to temporarily lease

non-user shares of stock and purchase his proportionate share of Pooled-Water, to the whole of shareholders' allocated but currently not to be used water.

Such non-user stock and Pooled-Water shall be so available to other Company shareholders at a price of eighty percent (80%) of the Main San Gabriel Basin Watermaster's cost of Replacement Water during the then current fiscal year and, in addition thereto, the Company's charge for water delivery at the time of such delivery.

The purchase price paid by Company shareholders for such leased shares and Pooled-Water shall be allocated between the offering shareholders and the Company whereby the Company's delivery charge shall be retained by the Company and the balance paid proportionately to or for the benefit of the shareholders making such stock and additional water available to the other shareholders by way of the Company's Pooled-Water program.

In the event of over-subscription of Pooled-Water whereby more water is requested by Company shareholders from Pooled-Water than is available from the pool, Pooled-Water shall be made available to requesting shareholders in the proportion that each requesting shareholders' stock ownership bears to the total of the shares requesting delivery from the Pooled-Water.

Both requesting and releasing shareholders shall be notified by the Company, within thirty (30) days of its receipt of the above mentioned questionnaire, whether the Pooled-Water is over or under-subscribed and the effect thereof, individually, upon each requesting and releasing shareholder.

In the event of under-subscription of Pooled-Water whereby more water is made available by non-user shareholders than is requested by other Company shareholders, the Pooled-Water requested to be delivered by the Company (and the said chargestherefor, minus Company delivery charges,) shall be apportioned among the releasing or non-using shareholders in the fraction of an individual shareholders' released amount over the total so released, multiplied by the total requested temporary stock leases and Pooled-Water purchases.

The proportionate balance of a shareholders' unsubscribed but offered to release amount of water, if any, shall be available to him for other disposition, through his own temporary lease of his Company stock and the Company's temporary transfer of its water rights, at such shareholder's request to the Company, to his own negotiated stock leasee- water purchaser, at his own negotiated price and conditions and without any additional Company incurred non-reimbursable expense.

In the event a shareholders' total water needs are not met through his individual entitlement and his request for Pooled-Water, such additional amount of water shall be delivered by the Company at a cost to such shareholder of the Main San Gabriel Basin Watermaster's Replacement Water Assessment for over production during the then current fiscal year plus the Company's then current charge for water delivery.

Any and all Pooled-Water which has been subscribed for by Company shareholder(s) but which has not been delivered by the Company to such subscribing shareholder(s) in the requested

fiscal year, for any reason not occasioned by the said subscribing shareholder, shall be carried over to the credit of said shareholder(s) for delivery by the Company in the next fiscal year and at the same price. The first water delivered by the Company to such shareholder(s) in said next fiscal year shall be considered, treated and paid for as the said carried over water.

In the event a shareholder does not take delivery or otherwise make use of all or any part of his remaining proportionate and allocated share of unsubscribed Company Pooled-Water for a particular fiscal year, as herein provided, such remaining and unused amount of water shall accrue to the general benefit of the Company and all of its shareholders.

RESTATED
ARTICLES OF INCORPORATION
OF
COVINA IRRIGATING COMPANY

First: The name of this Corporation shall be COVINA IRRIGATING COMPANY (formerly known as Azusa Water Development and Irrigation Company):

Second: The Corporation's only purpose shall be to develop, distribute, supply or deliver water for irrigation and domestic uses to or for the benefit of its shareholders, at cost plus necessary expenses, in proportion to the number of shares of stock held by them respectively.

In carrying out said purpose, it shall have no obligation to construct any delivery facilities nor to deliver any water, for whatever purpose, to shareholders or their designees, outside the area or territory described as follows, to wit:

BEGINNING at a point on the main "Covina Cement Ditch" at the intersection of said "Covina Ditch" with North Citrus Avenue or the extension thereof; thence following the line of said "Covina Ditch," in a southeasterly direction to its intersection with Dawson Avenue; thence east along the center line of Dawson Avenue to the center line of Glendora Avenue in Rancho Addition to San Jose; thence south following the center line of Glendora Avenue to the center line of Gladstone Avenue; thence west on the center line of Gladstone

Avenue to its intersection with the said "Covina Ditch"; thence along said "Covina Ditch" in a southeasterly direction to its intersection with the Covina San Jose pipe line just south of Juanita Avenue; thence southeasterly following the Covina San Jose pipe line to its intersection with the center line of Banna Street; thence southerly along the center line of Banna Street to the northerly line of Lot 3, Block 3, Hollenbeck Ranch Partition; thence easterly along said northerly line of Lot 3, Block 3, to the easterly line of said lot; thence southerly along said easterly line of said Lot 3, Block 3, to the center of Badillo Avenue; thence easterly following the center line of Badillo Avenue to the east line of Lot 7, Block 2, of the Hollenbeck Ranch Partition Tract, in the Rancho La Puente; thence southerly along said easterly line of Lot 7, Block 2, to the southeast corner of said Lot 7, thence 20 feet west from the southeast corner of Lot 7, Block 2, to the southeast corner of said Lot 7; thence 20 feet west from the southeast corner of Lot 7, Block 2; thence south $31^{\circ} 20'$ West, 250.39 feet; thence following the eastern boundary line of the "Masonic Homes for Children" properties on a curve concave to the south 332.7 feet; thence on a curve concave to the west 66.98 feet; thence south 74.2 feet to the north line of Puente Street; thence south across Puente Street to the northeasterly corner of Lot 4, Block 1,

Shouse and Chapman Tract, Rancho La Puente; thence southerly along the easterly line of said Lot 4, Block 1, Shouse and Chapman Tract to its intersection with the northeast boundary line of Lots 3 and 5 of the Chaffey Tract; thence following along said northeasterly boundary line of the Chaffey Tract to the point farthest east in said Lot 5 of the said Chaffey Tract; thence in a southerly and southwesterly direction following the easterly boundary line of said Lot 5 of the said Chaffey Tract to its intersection with the center line of a road known as the "Pomona and Covina Road", also known as Covina Hills Road; thence northwesterly and westerly along the center line of said "Pomona and Covina Road" to its intersection with the east line, or the northerly prolongation thereof, of Lot 21, McCarthy Co.'s subdivision of Block 1, Hollenbeck Tract, in the Rancho La Puente; thence south along said easterly line of Lot 21 to its intersection with the southerly line of said Lot 21; thence westerly along said southerly line of said Lots 21, 20, 19, 18, Block 1, McCarthy Co.'s subdivision and the southerly line of Lot 8, Block 25, Phillips Tract, Rancho La Puente, to its intersection with the easterly line of Lot 11 of Tact No. 2371; thence southerly along said east line of Lot 11 and Lot 12, Tract No. 2371, to its intersection with the center line of Virginia Avenue; thence Westerly and Northwesterly along the center line

of Virginia Avenue until it intersects with Barranca Avenue; thence northerly along the center line of Barranca Avenue to its intersection with Walnut Creek Wash; thence along and following the center line of the stream bed of the said Walnut creek Wash in a southwesterly direction until said Walnut Creek Wash intersects with the center line of Glendora Avenue, Rancho La Puente; thence along the center line of Glendora Avenue in a northeasterly direction to its intersection with the center line of Arroyo Avenue, also known as the San Bernardino Freeway; thence northerly across Arroyo Avenue to the southwest corner of Block 30, Phillips Tract; thence northerly following the westerly boundary lines, or prolongation thereof, of Lot 7 and Lot 2, Block 30; Lot 7 and Lot 2, Block 19; Lot 7 and Lot 2, Block 18; Lot 7 and Lot 1, Block 7; and Lot 1, Block 6, all of the Phillips Tract, Rancho La Puente, to their intersection with Covina Boulevard, sometimes known as San Bernardino Road; thence easterly following the center line of San Bernardino Road to its intersection with the center line of Azusa Avenue; thence along the center line of Azusa Avenue in a northerly direction to its intersection with the south line of the branch line of the Southern Pacific Railroad tracks; thence along said southerly line of the said Southern Pacific Railroad tracks in an easterly direction until it intersects

with the southerly prolongation of the westerly line of the N.E. 1/2 of the W. 1/2 of the southeast 1/4 of the southeast 1/4 of Sec. 11, Township 1 South, Range 10 West; thence along said westerly line in a northerly direction to its intersection with the center line of Cypress Avenue; thence along the center line of Cypress Avenue in a westerly direction to its intersection with Azusa Avenue; thence northerly along the center line of Azusa Avenue until it would intersect with the easterly prolongation of the southerly line of the northeast 1/4 of the southeast 1/4 of Section 10; thence following the southerly and westerly boundary lines of the said northeast 1/4 of the southeast 1/4 of Section 10 to the northwest corner of said property; thence along the northerly line of said property and its prolongation in an easterly direction until it intersects with the center line of Citrus Avenue at Section Center Avenue, now known as New Covina Boulevard; thence north along the center line of Citrus Avenue to the center line of Bonita Avenue, also known as Arrow Highway; thence along the center line of Bonita Avenue to the center line of Cerritos Avenue; thence northerly along the center line of Cerritos Avenue to the northwest corner of the west 1/2 of the southwest 1/4 of the southwest 1/4 of Section 2, Township 1 South, Range 10 West, S.B.B. & M.; thence easterly along said north line of the said property to the southwest corner of the

northeast 1/4 of the southwest 1/4 of the southeast 1/4 of said Section 2; thence north along said westerly boundary line of said property to the northwest corner of said property; thence east along the north line of said property and its prolongation to an intersection with the center line of Citrus Avenue; thence south along the center line of Citrus Avenue to the center line of Bonita Avenue; thence east along the center line of Bonita Avenue to its intersection with Ben Lomond Avenue and the main "Azusa Ditch"; thence following the said "Azusa Ditch" in a northerly and northwesterly direction until it intersects with the center line of Citrus Avenue; thence north along the center line of Citrus Avenue to the said "Covina Ditch," the point of beginning; all in the County of Los Angeles, State of California; and said company shall not be required to furnish water to any stockholder from any of its ditches, pipe lines or conduits outside of the said area; PROVIDED, that wheresoever any stockholder shall have heretofore been receiving and using water from this Company upon lands outside of said area, such stock may continue to receive and use such water on the same lands in the future.

The boundaries of and the property to be included within said area may be changed at any annual shareholders' meeting or special shareholders' meeting called for that purpose.

Third: The name and address in this state of the Corporation's agent for service of process is WILLIAM R. TEMPLE of 146 East College Street, Covina, California 91723.

Fourth: Unless and until changed by the By-Laws, as hereinafter provided, the number of directors shall be Nine (9); and authority is hereby conferred upon and reserved to the shareholders to adopt, repeal and amend the By-Laws, wherein and whereby the number of directors of the Corporation at any time shall be as fixed and provided in the By-Laws then in force, and such number may be changed from time to time by a By-Law adopted by the shareholders as other By-Laws are adopted.

Fifth: The corporation is authorized to issue 10,000 shares of capital stock, all of one class, of the par value of \$40.00, to be designated "Common Stock."

Sixth: The Board of Directors may, in its discretion, levy and collect assessments upon all issued shares of the corporation. Such assessments shall be a lien upon the shares assessed from the time of the levy. The levies of assessments and assessments shall be in conformity with Corporations Code Section 423.

In the event of non-payment of any assessment, the Corporation may sell or forfeit the shares against which the assessment was levied, in the manner now, or as may be hereafter provided by the laws of the State of California.

The Board of Directors may levy and collect from the shareholders water tolls and charges, and withhold delivery of water while any such tolls or charges are delinquent; and make such tolls and charges a lien against the shares; and withhold

transfer of any shares while subject to the lien of any unpaid tolls, assessments or charges.

The Board of Directors may adopt, repeal, modify, from time to time change, and enforce all rules and regulations which it may deem advisable for carrying out any and/or all of the foregoing purposes and powers, including the right to provide and determine when, where and in what manner delivery of water is to be made, and also the right to provide for and enforce the imposition of penalties for violation of such rules and regulations, as well as to discontinue the delivery of water for such violation or for failure to pay any charges, tolls or assessments.

The foregoing purposes and powers are subject to the express limitation and condition that the Corporation shall carry on its business without the distribution of any gains, profits or dividends to its shareholders except upon dissolution.

Seventh: Notwithstanding any other provision in these Articles, fifty percent (50%) of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on any matter shall be the act of the shareholders.



California Fair Political Practices Commission

April 22, 1986

Ronald J. Einboden
Oliver, Stoeber & Laskin
1000 Sunset Boulevard
Los Angeles, CA 90012

Re: 86-126

Dear Mr. Einboden:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

Robert E. Leidigh
Robert E. Leidigh
Counsel
Legal Division

REL:plh

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

August 10, 1984

Ronald J. Einboden
City Attorney
City of Covina
c/o Oliver, Stoeber & Laskin
1000 Sunset Boulevard
Los Angeles, CA 90012

Re: Request for Advice
Our No. A-84-100

Dear Mr. Einboden:

Questions have been raised regarding the correctness of the advice rendered by this agency in its letter to Charles S. Vose, your predecessor as Covina City Attorney, No. A-79-046. Our previous letter concluded that Covina City Councilmembers serving on the Board of Directors of the Covina Irrigating Company were not subject to conflict of interest disqualification under the Political Reform Act arising out of their service as members of the Board of Directors and their receipt of income in excess of \$250 for such service.

Upon careful reconsideration of our previous letter and based upon the analysis set forth below, we now conclude that the previous letter is in error and it is hereby rescinded and the advice therein may no longer be relied upon under the provisions of Government Code Section 83114(b).

FACTS

Factual information for our reconsideration of our previous letter has been provided by yourself and by Covina Councilmembers Low, Colver and Morgan, and includes many documents, too lengthy to detail here. The following is a summary of the material facts provided, facts which appear to not be in dispute.

1. The City of Covina ("City") has five elected city councilmembers, one of whom serves as mayor.

Ronald J. Einboden
August 10, 1984
Page 2

2. Pursuant to the authorization contained in Art. 16, Section 17 of the California Constitution, the City owns stock in the Covina Irrigating Company ("CIC").

3. The City owns 4,076 shares of the 10,000 shares outstanding of CIC stock.

4. Using cumulative voting, which is permitted by Art. III, Sec. 12 of the By-Laws of CIC, the City is able to elect 4 of the 9 directors of CIC by voting its shares at the annual shareholders meeting, held the fourth Saturday of February of each year.

5. Each February, the City Council has voted at one of its meetings to select the persons for whom it wishes to vote its stock to elect as CIC directors at the annual CIC shareholders meeting. Usually this group has contained two city councilmembers, although some years it has contained three councilmembers.

6. By vote at shareholders meetings, the shareholders set the compensation which CIC directors shall receive for each meeting attended. (CIC By-Laws, Art. IV, Sec. 12.) Currently, it is \$150 per meeting.

7. CIC is a private, for-profit corporation, organized under the laws of the State of California. The purpose for which it is formed is:

To procure, furnish, supply and distribute water to and for its stockholders only, for irrigation purposes, in proportion to the number of shares of stock held by them respectively.

This provision was amended in 1957 to delete a previous requirement that water be provided to CIC stockholders "at cost."

8. The meetings of the Board of Directors of the Covina Irrigating Company are closed to the public. Agendas for stockholders meetings are neither required nor public; consequently, the City Council cannot act, in its own deliberations, to instruct its representatives to the shareholder meetings as to how they should vote the City's 4,076 shares because the City Council does not know what issues will be voted on (such as raising fees to be paid to directors).

9. City-elected members of the CIC Board need not be city employees or officials and two of the four currently do not hold any official position with the City. City elected CIC Board members are not subject to the City's Conflict of Interest Code when serving on the CIC Board.

10. On February 18, 1977, the Covina City Attorney issued an opinion, which remains in effect, that the Ralph M. Brown Act (relating to open meetings of local government bodies) does not apply to meetings of the CIC Board of Directors when attended by three or more Covina City Councilmembers. In that opinion, the City Attorney stated, inter alia:

I am aware of no persuasive arguments that would suggest that attendance at a C.I.C. Board meeting by Council members would result in any greater involvement with service in their official capacity than attendance at a meeting of the Rotary or Lions' Club.

The City Attorney's opinion focuses on whether councilmembers serving on the CIC Board are serving "in their official capacity" and concludes that they are not. The opinion further points out: "The Covina Council can and has appointed private persons to serve on the CIC Board." This opinion was only recently furnished to Commission staff by Mr. Low and was not taken into consideration in our previous advice letter in 1979.^{1/}

11. The CIC, as a private stock corporation, has approximately 250 shareholders, most of whom are individuals holding small numbers of shares (less than 50). Currently, only nine of those shareholders (mostly entities) are customers of CIC. These customers represent 5,858 (or approximately 70%) of the 10,000 shares of outstanding CIC stock. For 1983, CIC paid dividends totaling \$180,000 on 10,000 shares for a dividend of \$18 per share, which was calculated to be a 15.8% return on common equity.^{2/} This compares with a 14.5% rate of return permitted by the PUC for companies regulated by it-the CIC is not regulated by the PUC.

^{1/} Informal consultation with the Attorney General confirms the apparent correctness of the advice contained in the City Attorney's Opinion.

^{2/} This appears to be based upon a dividend rate of about 10% plus another 6% or so in retained earnings per share.

ANALYSIS

In our 1979 advice letter, the recited facts include the following statement:

The City of Covina owns 40.3% of the stock of the Covina Irrigating Company, which is a mutual water company but which is nevertheless operated for profit....

Unfortunately, these two concepts are incompatible. The term "mutual water company" is defined in Public Utilities Code Section 2725 as meaning:

... any private corporation or association organized for the purposes of delivering water to its stockholders and members at cost, including use of works for conserving, treating and reclaiming water.

(Emphasis added.)

As has been shown, above, in 1957 CIC's Articles of Incorporation were amended to delete from its statement of purposes the "at cost" provision. Its 1983 financial statement shows a substantial after taxes profit, approximately 2/3 of which was distributed to shareholders in the form of dividends, with a 15.8% return on common equity (the dividend rate appears to be 10%). However, we are informed that CIC is not subject to regulation by the Public Utilities Commission.^{3/}

For our purposes, we conclude that, inasmuch as the CIC Articles of Incorporation do not on their face meet the statutory test established in Public Utilities Code Section 2725, we will treat CIC as a "business entity" within the

^{3/} Conversations with counsel in the legal division of the PUC indicate that unless the water is in fact provided "at cost," then the company is a "public utility" subject to PUC regulation. However, determination of that issue is a factual question which can only be resolved if a customer files a formal complaint with the PUC. We make no comment on the appropriateness of such an action or on the probable outcome.

Ronald J. Einboden
August 10, 1984
Page 5

meaning of the Political Reform Act,^{4/} (the "Act") Government Code Section 82005.

"Income" as defined in the Act includes any payment received. Section 82030(a). Clearly, the payments to the directors fall into this category. Section 82044. In our previous advice letter, we analogized this income to "government salaries" and therefore advised that it was exempt from being considered "income" pursuant to Section 82030(b)(2), because:

The Act does not contemplate a conflict of public interests ... the actions they take as Board members, however, are strongly analogous to other decisions they make as Councilmembers.

The service on the CIC Board was considered to be a part of the councilmembers public service in their official capacity as representative of the City. However, at the time we reached that conclusion, we were unaware of the City Attorney's Brown Act opinion and the fact that the CIC meetings were closed rather than public. Our admonition to the councilmembers:

... they should observe the policies of the Act when serving as Board members as well as Councilmembers....

is a hollow admonition if the meetings are closed and no one can monitor their activities as Board members. Furthermore, we have been advised that the City of Covina's Conflict of Interest Code does not encompass its representatives serving on the CIC Board.

Consequently, we hereby rescind our previous advice as contained in the letter to Charles S. Vose, No. A-79-046, dated June 11, 1979. Our advice is now as follows:

1. Payments received on or after September 1, 1984, will be "income" within the meaning of Section 82030(a). Therefore, if any public official receives in any 12 month period after September 1, \$250 or more in Directors' fees, CIC will be considered a source of income under Section 87103(c) and disqualification will be required if the other requirements of Sections 87100 and 87013 are met.

^{4/} Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise specified.

You have asked whether the official could avoid this result by either refusing the payments or donating them to charity. The official may avoid this affect by either refusing the payments or by turning them over to the City of Covina.

2. Service by a public official as a member of the Board of Directors of CIC, a business entity, beyond February 28, 1985,^{5/} will be considered to meet the requirements of Section 87103(d) and will likewise require disqualification if the other requirements of Sections 87100 and 87103 are met. A director of a corporation has a fiduciary relationship to the corporation and its shareholders. California Corporations Code, Section 309(a).

3. Actions by the City Council as trustees for the City's shares of stock in CIC (such as deciding how the City's shares should be voted) are official city actions and are subject to the conflict of interest provisions of the Act.

Lastly, an issue has been raised regarding Mayor Colver's ownership of CIC stock. In the past, Mayor Colver has reported having an investment in CIC worth more than \$1,000. During the course of our review of this matter, he has amended his Statement of Economic Interests to reflect no reportable investment in CIC. Mr. Low's letter of June 12, 1984, at p.2, indicates that Mayor Colver may have inherited some stock "but that that did not count." "Investment," as the term is used in the Act, includes both direct and indirect investments, however acquired.^{6/} If Mayor Colver has any questions regarding what he should be reporting, he may contact us for advice.

^{5/} A time period has been allowed for accomplishment of a smooth transition should councilmembers currently serving as directors wish to resign or not be reelected. Directors may be elected at the annual shareholders meeting or at a special meeting of the shareholders, which may be called for that purpose, but only if no election for directors has been held in more than one year. Since one was held this year, the next meeting would be the annual one.

^{6/} Inheritances are excluded from being considered "income" under the Act when received. However, once held, inherited stock counts as an investment if it meets the other statutory requirements. Section 82034.

Ronald J. Einboden
August 10, 1984
Page 7

In closing, I wish to emphasize that this letter in no way questions the good faith of any officials of the City of Covina in acting upon our previous advice over the past 5 years. Should you have questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert E. Leidigh". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: Councilmember Robert Low



TO KL
5/1/84

CITY OF COVINA

125 EAST COLLEGE STREET

COVINA, CALIFORNIA 91723

(213) 331-0111

ROBERT LOW
COUNCILMAN

May 2, 1984

Mr. Robert E. Leidigh
Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, Ca. 95804

Dear Mr. Leidigh:

I have re-read my letter of April 19, 1984, and I would like to expand on a few of the remarks that I made.

The Covina Irrigating Company is an unusual enterprise. Almost forty-one per cent of its stock is publicly owned by the City of Covina. Most of the remaining 59 per cent is privately controlled.

The public-private ownership creates an unusual relationship. From the City's point of view, and from the point of view of most of the people that use the water produced by the Covina Irrigating Company, there is no advantage in the company making a profit. The company pays the City dividends out of the profits the company earns, but for every dollar the company earns in profits, forty-seven per cent is paid to the State and Federal governments in income taxes.

In short, the City could double the dividend income it earns from profits if it maintained its present rate schedule while the company reduced the price it charges for its water to the point where there was no profit, and therefore no Federal or State Income Tax responsibility.

However, the City is a minor shareholder in the company, and the company is managed so as to serve the interests of the private owners rather than the publicshareholders.

The company operates like any other private company, and its goal is clearly that of making a profit. In 1983 it cost the company \$47 per acre foot to deliver water to the City, and it was marketed at the rate of \$112 per acre foot.

In 1983 the company made a 138 per cent return on sales. For 1984 the company increased its price of water another 3 per cent to \$121 per acre foot.

As indicated in the letter of April 19, 1984, three Covina City Councilmen appointed themselves to serve on the Board of Directors of the Covina Irrigating Company. The company pays each Director \$250 per meeting. The meetings are held once a month and last about one hour. They are closed to the public. The monthly fee paid the directors is raised through the sale of the company's water. In 1983, the company

6000 acre feet, or sixty-nine per cent.

At the closed Board meetings the nine Directors set the price of the company's water. The company is not a regulated agency. In the same meetings the Directors establish the salaries they pay themselves.

The question is under the Political Reform Act is there any conflict of interest when a City Councilman appoints himself to serve as a Director of a public-private corporation such as that of the Covina Irrigating Company?

Respectfully yours,



Bob Low
125 East College
Covina, Ca. 91723



F F F C
C I T Y O F

C O V I N A

125 EAST COLLEGE STREET

COVINA, CALIFORNIA 91723

(213) 331-0111

ROBERT LOW
COUNCILMAN

April 19, 1984

Barbara Milman
General Counsel
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95804

Dear Ms Milman:

Following conversations with Lynn Montgomery and Bob Leidigh, it was suggested that I request from you a review of the Fair Political Practices Commission opinion of June 11, 1979, concerning the appointment of City Councilmen to the Board of Directors of the Covina Irrigating Company (attached).

A Covina City Attorney summary of the 1979 opinion has been used by the City Council as a guideline in making appointments to the Board of Directors of the Covina Irrigating Company (attached: February 11, 1983).

While the Covina Irrigating Company refers to itself as a mutual water company, its primary purpose is to make a profit by supplying water to its customers. The City of Covina buys about 70 per cent of the water the company produces. The City owns about 11 per cent of the stock of the company. The company has about 270 individual shareholders, and they own from one share to the City's 4,076 shares. There are 10,000 outstanding shares.

In 1983, on sales of \$957,129 the cost of production was \$416,440, and the net income before State and Federal Income Taxes was \$545,925. On sales that is a 131 per cent pre tax profit (page 12 - Annual Report).

The Covina Irrigating Company operates as a private company. Until last Tuesday, three Councilmen, a majority of the Covina City Council, served on the company's Board of Directors. Its meetings are closed to the public.

The 1979 FFPC opinion refers to the Covina Irrigating Company as "a mutual water company but which is nevertheless operated for profit."

#2725 of the Government Code defines a mutual water company as a private corporation or association organized for the purpose of delivering water to stockholders and members at cost.... Of the company's 270 stockholders no more than 9 make direct purchases of water from the company.

The Covina Irrigating Company has a nine member board of directors, four of which are appointed by the Covina City Council. The nine member board of directors oversees the company's three employees. The directors met once a month for about one hour. Since the 1979 FFPC opinion the directors of the Covina Irrigating Company have increased their fees from \$50 per meeting to \$150 per meeting, a 200 per cent increase.

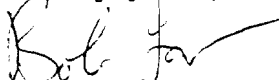
The 1979 FFPC opinion states the salaries received by Councilmen serving on the Board of Directors of the C.I.C. are "compensation for service rendered to the public, and are analogous to government salaries." It then concludes "income as used in the act specifically excludes salary and reimbursement for expenses or per diem received from state, local, or federal government agency...."

The Covina Irrigating Company acts and functions as a private company, and in 1983 it paid \$258,860 in State and Federal Income Taxes. The Board of Directors sets the salaries of its members. It pays the salaries out of company funds. The meetings where the actions are taken are closed to the public and not subject to the scrutiny of the press.

In 1984, three Councilmen on a 3 to two vote appointed themselves to serve on the Board of Directors of the CIC. Two Councilmen voted against the action in part on the grounds that it was a violation of the intent of the Brown Act. That issue appears to now be moot as one of the Councilmen was defeated in the April municipal election.

But the issue of accountability remains. Under the Fair Political Practices Act, can a City Councilman use his position as a public official to appoint himself to the board of directors of a private corporation, and then while serving in that capacity, and secluded from public scrutiny, set water rates for the community and salaries for himself and other board members that are then passed on to the public in the form of higher prices to the consumer?

Respectfully yours,



Bob Low, Councilman
125 East College Street
Covina, Ca. 91722
Home Phone: 966 3076 (Area Code 213)

Attachments:

1979 FFPC Opinion
City Attorney Opinion
CIC 1983 Annual Report
February 21, 1984 Council Minutes
CIC Appointments
Colver: Statement of Economic Interests

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

August 23, 1984

Ronald J. Einboden
City Attorney
City of Covina
c/o Oliver, Stoeber & Laskin
1000 Sunset Blvd.
Los Angeles, CA 90012

Re: Our Advice Letter No. A-84-100

Dear Mr. Einboden:

This letter is written pursuant to your request for follow-up clarification to my letter to you, dated August 10, 1984. Specifically, you were concerned with the advice contained in paragraph 3 on page 6. You wanted to know whether the term "trustees for the City's shares of stock in CIC" meant that the councilmembers had financial interests in CIC (which could lead to conflicts of interest) pursuant to Government Code Section 87103(d), which contains a reference to "trustees" of a business entity. I assured you over the telephone that this was not our interpretation, but I am now confirming that advice in writing.

The term "trustee" as used in Section 87103(d) is generally synonymous with "director." Some companies refer to their officers or directors as trustees. It could also encompass a trustee in bankruptcy, although this situation is not likely to arise.

The term "trustee" as used in my letter refers to the councilmembers' status as the trustees for the city's stock. Commission regulation 2 Cal. Adm. Code Section 18234(d) states:

... a filer does not have a direct, indirect or beneficial interest in a trust by reason of being a trustee or co-trustee provided that the filer does not have a direct, indirect or beneficial interest . . . in the trust....

Ronald J. Einboden
August 23, 1984
Page 2

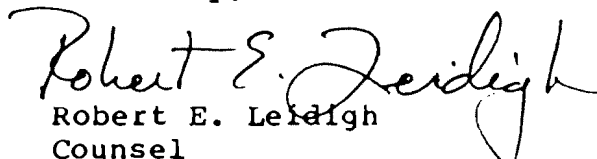
Consequently, the councilmembers' service as trustees for the City's stock does not, in and of itself, give them a financial interest in the Covina Irrigating Company (CIC).

Paragraph 3 in my letter was merely drawing the distinction between the private nature of the councilmembers' activities as directors of CIC and the public nature of their actions taken as the City Council relating to CIC.

Lastly, Mayor Colver has reiterated to you that he owns only one share of CIC stock and no others, inherited or otherwise. Because the fair market value of one share is less than \$1,000, he has no "investment" in CIC within the meaning of the Political Reform Act.^{1/} Consequently, no disclosure or disqualification can be required as a result of his ownership of this one share.

I trust that this letter has adequately responded to your questions. Should you have further questions, please do not hesitate to call me at (916) 322-5901.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: Councilmember Robert Low

^{1/} Government Code Sections 81000-91014. See specifically Section 82034 defining "investment."

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July 2, 1984

Robert Low, Councilman
City of Covina
125 East College Street
Covina, CA 91723

Re: Our File No. A-84-100

Dear Mr. Low:

Unfortunately, our letters keep crossing in the mails, which underscores why it is imperative that you copy your correspondence to Mr. Einboden. Otherwise, we will be sitting here months from now with no resolution to the question at hand. This is the last time, I am sending a copy of your correspondence to Mr. Einboden along with a copy of this letter. In the future, I will disregard any communications which are not furnished by either of you "to the other side."

Lastly, I would ask that each of you make your last submissions of "material facts" (Government Code Section 83114(b)) to me, postmarked no later than July 16, with copies to each other. Any rebuttals to those must be mailed by July 20, after which I intend to complete my analysis and send out the advice letter by August first. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Leidigh".

Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: Ronald J. Einboden

State of California



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June 26, 1984

Robert Low, Councilman
125 East College Street
Covina, CA 91723

Re: Your Letter of 6/22/84
Our File No. A-84-100

Dear Mr. Low:

On June 21, 1984, I sent you copies of materials submitted by City Attorney Ronald Einboden. By copy of this letter, I am sending him copies of your June 22 communication. This agency has no jurisdiction with respect to water rates or supply amounts of Covina Irrigating Company (CIC) to the City of Covina. Nor do we have any jurisdiction with respect to the Incompatible Activities Ordinance of the City of Covina. Consequently, these matters are not relevant to our inquiry. On the other hand, I am interested in your assertion that a former Covina City Councilmember is continuing to serve on the CIC board despite his defeat at the election. By copy of this letter, I am asking Mr. Einboden to respond to this point.

Secondly, it seems foolish for this office to have to continue to copy and mail to you and Mr. Einboden each other's correspondence when, presumably, you two see each other regularly. Therefore, I must insist that all future correspondence by either of you (or Mayor Colver, etc.) indicate that it has been furnished to the other interested parties in this matter. This will greatly speed up the process. Thank you.

Sincerely,

Handwritten signature of Robert E. Leidigh in cursive script.
Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: Ronald J. Einboden

State of California



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June 21, 1984

Robert Low, Councilman
125 East College Street
Covina, CA 91723

Re: Your Request for Advice
Our File No. A-84-~~889~~100

Dear Mr. Low:

Enclosed is a copy of materials received today from Mr. Einboden in response to my letter of May 21. It is not clear to me whether copies of the letter and its attachments were furnished to you so I am forwarding copies for your comment. If possible, please respond to me by the first of July so that I may have as much input as possible prior to analyzing the questions presented.

Sincerely,

A handwritten signature in cursive script that reads 'Robert E. Leidigh'.

Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosure
cc: Ronald J. Einboden

State of California



Fair Political Practices Commission

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May 21, 1984

Bob Low, Councilmember
City of Covina
125 East College
Covina, CA 91723

Re: Your Request for Advice
Our No. A-84-100

Dear Mr. Low:

Thank you for your several letters regarding the Covina Irrigating Company. We are unable to give you advice regarding the duties and obligations under the Political Reform Act of your fellow councilmembers. However, we are concerned with the continuing validity of our 1979 advice letter on the subject which is being relied upon by your city attorney and fellow councilmembers. Consequently, we have sent a letter to the Covina City Attorney, Mr. Einboden, a copy of which is enclosed. We have requested additional factual input from Mr. Einboden and your colleagues on the Council. Should you have any further information which you wish to provide to us, please do so.

Sincerely,

A handwritten signature in cursive script that reads 'Robert E. Leidigh'.

Robert E. Leidigh
Counsel
Legal Division

REL:plh

State of California



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May 21, 1984

Ronald J. Einboden
City Attorney
City of Covina
Oliver, Stoever & Laskin
1000 Sunset Boulevard
Los Angeles, CA 90012

Re: Advice Request by Bob Low,
Councilmember, City of Covina
Our No. A-84-100

Dear Mr. Einboden:

Pursuant to our telephone conversation on Friday, I am forwarding to you the materials and letters sent to this office by Bob Low, Councilmember, City of Covina. As I advised you by telephone, Mr. Low's letters raise questions in the minds of the Commission's staff regarding the continuing validity of our 1979 Advice Letter to Charles S. Vose (No. A-79-046), your predecessor as City Attorney, on this same subject.

However, the Commission does not render advice based solely upon facts presented by a third party. Even though Mr. Low is a Councilmember, he is still raising questions about the duties and obligations of other officials. Because our 1979 advice letter is being relied upon in this matter, we feel compelled to urge that you and the Councilmembers involved request our advice as to the letter's current validity and provide us with whatever additional material facts you deem appropriate.

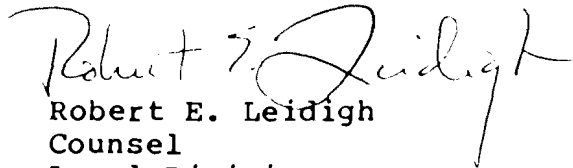
We would specifically appreciate information on the topic of why a private corporation, which holds closed meetings, should be considered "public" when it comes to income received by its board of directors? A related factual question is whether there is a Conflict of Interest Code for the Covina Irrigating Company (CIC) and/or whether the City of Covina's Conflict of Interest Code covers the City's representatives serving on the CIC Board of Directors. Also, what type of individuals have been selected

Ronald J. Einboden
May 21, 1984
Page 2

to fill the other CIC director slots elected by the City; have these been private citizens or other city officials? Finally, it would be helpful for us to know whether city councilmembers are usually paid for serving as city representatives on other governmental agencies, and, if so, whether they are paid by the city or by the agency.

Your early response will be appreciated. If I can answer any questions, I will be pleased to do so. I may be reached at (916) 322-5901. As I indicated to you on the telephone, any modification of the Commission's advice contained in the 1979 letter would operate prospectively only.

Sincerely,

A handwritten signature in cursive script, reading "Robert E. Leidigh".

Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: Bob Low, Councilmember
Enclosures